IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 11703 of 2004

Between:

K.S.Manohar, S/o Late K.Ramachander Rao,
r/o H.No.1-7-654, Subedari, Hanamkonda, Warangal.

..... PETITIONER

AND

1 The District Collector, Khammam.
2 State of Andhra Pradesh, rep.by its Secretary to the Government, Education Department, Secretariat, Hyderabad.
3 The District Educational officer, Khammam.
4 The Commissioner & Director of School Education, Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an writ of Certiorari calling for the records of the A.P.Administrative Tribunal pertaining to O.A.No.922 of 2000, dated 15th December 2003 and quash the same and consequently set aside the Government Memo No.2663/Ser.4.1/98-4, dated 30-06-1999 and the consequential proceedings of the 3rd respondent dated 17-08-1999 in Rc.No.11204/B3/B4/90, declaring them as illegal and arbitrary and contrary in law and further direct to consider the case of the petitioner for appointment on compassionate grounds and issue such other writ or order or direction as deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.CH.SAMSON BABU

Counsel for the Respondents: GP FOR SERVICES-I

The Court made the following:

ORAL ORDER: (By GB.J.)

The Writ Petition is filed challenging the order passed by A.P. Administrative Tribunal (for short Tribunal) in OA.No.922 of 2000, dated 15.12.2003.

2. The matter relates to compassionate appointment. The father of the petitioner died on 12.1.1989 while he was working as Teacher. Thereafter the wife of the deceased made an application for providing employment to their son. The said application was rejected, though belatedly, on the ground that he was not eligible. Against the said rejection, the petitioner approached the Tribunal in OA.No.3299 of 1993 and the matter was disposed of with a direction to consider the case of the petitioner in accordance with the Rules. Ultimately the impugned order was passed rejecting the case of the petitioner on the ground that he is not eligible to be considered for appointment. The said order came to be challenged before the Tribunal in the above OA. The learned Tribunal, after considering the matter, dismissed the application. Against the said dismissal, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that the Government issued clarificatory instructions on 17.12.1979 to the effect that even though the son of the deceased-employee is a minor at the time of death, his case could be considered provided he is short of two years in respect of the eligible age. Taking clue from the said clarification, the learned counsel would submit that the word only 'may' has been used and therefore two years can be stretched in the appropriate circumstances and in the instant case it is only three years and hence in order to implement the scheme of the Government it would not cause any harm to the scheme of relaxing one more year than what is stipulated in Memo dated 17.12.1979.

4. We are afraid we cannot accept the contention of the learned counsel for the petitioner. As a relaxation measure two years was clarified in Memo dated 17.12.1979 in cases where the sons or the dependants are the minors and are short of two years of age, eligible criteria is mentioned in the relevant Rules.

Further in GO.Ms.No.400, General Administration (Ser.A) Department, dated 12.9.1996 the Government made it clear that no relaxation can be given in respect of the appointments under compassionate appointment scheme. Considering this aspect the Tribunal has discussed the issue while rejecting the application, which is extracted below:

> "Undoubtedly, the G.O. quoted in support of the contention of the learned counsel for the applicant i.e., G.O.Ms.No.165 GA (Ser.A) Department, dt.20.3.1989 does not apply to the case of the applicant. It is also seen that rule 4 of the said Government Order, the Government after careful consideration, direct the dependent of a Government employee, who dies in harness or retires on medical invalidation grounds should apply for appointment only after attaining the age of 18 years subject to the condition stipulated that the applicant should ask for relief within a reasonable time which may be two years from the date of demise of the Government servant by the spouse or the child or the deceased Government servant should immediately apply for this relief. Then only the case of the individual has to be considered for appointment on compassionate grounds. So, in view of the matter, there is no substance in the contentions urged by the learned counsel for the applicant. There are no merits in the O.A. warranting interference by this Tribunal. The O.A. is dismissed as devoid of merits".

5. Under those circumstances having given anxious consideration of the matter, we are not inclined to interfere with the order passed by the Tribunal, as admittedly the petitioner was below the age as fixed in Memo dated 17.12.1979. Thus we do not find any merit in the Writ Petition.

6. In the result, the Writ Petition is dismissed. No costs.

(G.BIKSHAPATHY, J.)

8th December, 2004.

(P.S.NARAYANA, J.)

SSR

To

1 The District Collector, Khammam.
2 Secretary to the Government, State of Andhra Pradesh,
Education Department, Secretariat, Hyderabad.
3 The District Educational officer, Khammam.
4 The Commissioner & Director of School Education, Andhra Pradesh,
Hyderabad.

5 The Registrar, A.P. Administrative Tribunal, Hyderabad.

6 2CCs to G.P. for Services-I, High Court of A.P. Hyderabad. (OUT)

7 2CD copies.